

CITY OF SAN JOSÉ, CALIFORNIA Department of Planning, Building and Code Enforcement 801 North First Street, Room 400 San José, California 95110-1795		Hearing Date/Agenda Number P.C. 07/28/04 Item
<div>STAFF REPORT</div>		File Number CP04-020
		Application Type Conditional Use Permit
		Council District 9
		Planning Area Willow Glen
		Assessor's Parcel Number(s) 446-05-001
PROJECT DESCRIPTION		Completed by: Lori Moniz
Location: Southeast corner of Curtner Avenue and Meridian Avenue (1730 Curtner Avenue)		
Gross Acreage: 3.15	Net Acreage: 3.15	Net Density: n/a
Existing Zoning: R-1-8 Residence	Existing Use: Church	
Proposed Zoning: No Change	Proposed Use: Co-location of three (3) cellular antennas within a modified church steeple and associated equipment.	
GENERAL PLAN		Completed by: LM
Land Use/Transportation Diagram Designation Public/Quasi Public		Project Conformance: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> See Analysis and Recommendations
SURROUNDING LAND USES AND ZONING		Completed by: LM
North:	Single-family detached residences	R-1-8 Residence District
East:	Single-family detached residences	R-1-8 Residence District
South:	Single-family detached residences	R-1-8 Residence District
West:	Single-family detached residences	R-1-8 Residence District
ENVIRONMENTAL STATUS		Completed by: LM
<input type="checkbox"/> Environmental Impact Report found complete <input type="checkbox"/> Negative Declaration circulated on <input type="checkbox"/> Negative Declaration adopted on		<input checked="" type="checkbox"/> Exempt <input type="checkbox"/> Environmental Review Incomplete
FILE HISTORY		Completed by: LM
Annexation Title: Meridian No. 24		Date: March 8, 1962
PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION		
<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Approval with Conditions <input type="checkbox"/> Denial <input type="checkbox"/> Uphold Director's Decision		Date: _____ Approved by: _____ <input checked="" type="checkbox"/> Action <input type="checkbox"/> Recommendation
OWNER	DEVELOPER	APPLICANT
First Free Methodist Church of San Jose c/o Dr. Ray Ellis 1730 Curtner Avenue San Jose, CA 95125	Kersten Rutherford Metro PCS 1080 Marina Village Pkwy Alameda, CA 94501	Jennifer Estes Peacock Associates 5855 Doyle Drive, Suite 108 Emeryville, CA 94608

PUBLIC AGENCY COMMENTS RECEIVEDCompleted by: LM

Department of Public Works

None received.

Other Departments and AgenciesFire Department.

GENERAL CORRESPONDENCE

None received.

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The applicant, Peacock Associates, on behalf of Metro PCS, is requesting a Conditional Use Permit to allow the co-location of up to three (3) wireless communication antennas within a modified church steeple, and associated equipment cabinets on the grounds of an existing church site. On July 12, 2000, the Planning Commission approved a Conditional Use Permit (File no. CP00-020) to allow the addition of the church steeple to accommodate three (3) wireless communication antennas for Sprint PCS, another wireless communications provider. The Zoning Ordinance requires a Conditional Use Permit for installation of wireless communication antennas in the R-1-8 Residence Zoning District.

The antenna facility is proposed to be located on the grounds of Willow Vale Community Church located at the southeast corner of Curtner Avenue and Meridian Avenue. The site is developed with the main sanctuary building and single-story buildings for office, pre-school and church related uses. The site is bounded by single-family detached residential uses to the east and south, and across Curtner Avenue and Meridian Avenue to the north and west.

In 1996, Planning staff explored the issues of electromagnetic radiation to determine if emissions from the proposed antennas posed a public health hazard. Staff found that the low-frequency, low energy, non-ionizing emission associated with wireless communications antennas were well below the recognized safety standards set by the American National Standards Institute (ANSI). Staff concluded there was no evidence that such transmission would result in adverse health effects to people living or working in the vicinity of the antennas. Further, Staff investigated reports that wireless communication transmission interfered with hearing aids, pace makers, and other electronic devices. Staff determined the reported interference resulted from cordless telephones and not from antennas.

Project Description

The project proposes to co-locate three wireless communication antennas within an existing 27-foot tall steeple element which currently houses three (3) antennas. The proposal includes modifications to the existing steeple to accommodate the proposed antennas. The total height of existing steeple is approximately 55 feet, which will not change under this proposal. A Development Exception (V00-015), in conjunction with the previous Conditional Use Permit, was also approved by the Planning Commission to allow the church steeple to exceed the 35-foot maximum height limit of the R-1-8 Residence Zoning District.

The proposed steeple will be constructed of fiberglass, similar to that of the existing steeple and will be painted white to match the church. The existing Sprint PCS antennas are located within the bottom section of the steeple at a height of approximately 41 feet. The proposed antennas will be mounted within the midsection of the steeple at a height of approximately 46 feet. Each antenna is rectangular in shape and measures approximately 48 inches long by 8 inches wide. The width of midsection of the steeple will be increased by approximately 8 inches to accommodate the additional antennas. Photo simulations have been provided by the applicant and are attached to this report.

The accompanying equipment cabinet is proposed to be located along the southerly property line adjacent to existing equipment enclosure for Sprint PCS and adjacent to existing single-family detached residences. The project proposes to construct an approximately 235 square-foot concrete block equipment/trash enclosure, which will be 6 feet in height. A back-up generator is not proposed under this application.

ENVIRONMENTAL REVIEW

The Director of Planning has determined that this project is exempt from environmental review under the provisions of Section 15301(e)(1) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA). This section of the guidelines provides an exemption for the operation, leasing, etc. of existing private structures with no significant expansion of use. The proposed use is for addition of three (3) wireless communication antennas within a modified steeple and ground mounted 235 square foot equipment/trash enclosure on an existing church site. It is staff's opinion that the proposal adequately conforms to this section of the CEQA Guidelines.

GENERAL PLAN CONFORMANCE

The proposed use is consistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of Public/Quasi-Public in that the collocation of building mounted wireless communication antennas within a modified church steeple does not impair the use of the existing church and public school. The General Plan states that churches and private schools are appropriate uses in the Public/Quasi-Public land use designation.

The proposed use furthers the General Plan Urban Design Policy in that the use of building mounted antennas reduces the need for freestanding monopoles. The proposed building mounted antennas are sited and concealed within a church steeple to minimize public visibility.

ANALYSIS

The primary issues discussed are (1) conformance to Council Policy 6-20, *Land Use Policy for Wireless Communication Facilities*, (2) conformance with the Zoning Ordinance, and (3) conformance with Commercial Design Guidelines

Council Policy 6-20, Land Use Policy for Wireless Communication Facilities

The proposed project is consistent with the Council Policy with regards to antenna location, visual impact and setback from residential uses. The policy strongly encourages the co-location of new antennas to minimize visual impacts and specifies that they be architecturally integrated with existing structures. In conformance with these requirements, the antennas are proposed to be mounted and concealed within a church steeple that is almost identical to the existing steeple approved in 2000 with CP00-020.

The Policy requires that building mounted antennas be located a minimum of 35 feet horizontally from any property with a single-family residential use and specifies that ancillary equipment be adequately screened and not replace required parking. The proposed steeple and antennas are located approximately 85 feet from the nearest residential uses to the south in conformance with the Policy. Further, the equipment cabinet, proposed to be located at the edge of the existing parking lot, will not eliminate “required” parking.

Conformance with the Zoning Ordinance

The proposed project conforms to all relevant development standards of the R-1-8 residence Zoning District. The proposed antennas will be concealed within a new steeple which will replace an existing steeple of equivalent height on an existing building. The steeple has a setback of 85 feet from the nearest property line, which is in excess of the minimum side yard requirement of 5 feet.

The overall height of 55 feet is consistent with the approved Development Exception (file no. V00-015) issued by the Planning Commission in 2000.

Commercial Design Guidelines

The Commercial Design Guidelines states that service yards, including trash enclosures, storage areas, and utility cabinets, should not be located adjacent to residential area and should not create a nuisance for adjacent property owners. In 2000, staff recommended that the existing ground mounted equipment enclosure for Sprint PCS be located away from residential uses and closer to the existing church structures to avoid creating a nuisance to adjacent properties. At the time of Sprint’s proposal, there was illegal outdoor storage along the southerly property line. Staff was concerned that the establishment of an additional structure along the southerly property line adjacent to existing residential would further exacerbate outdoor storage problems and recommended that the existing illegal outdoor storage be removed prior to the issuance of a building permit for the Sprint project. The applicant was concerned that changing the location of the enclosure would increase the visibility of these enclosures from adjacent streets and/or

interfere with the Church operations. The Planning Commission agreed with the applicant and approved the enclosure at the current location next to the adjacent residential uses, however did require the removal of the illegal structures prior to obtaining building permits for the Sprint PCS antennas. The applicant obtained a Permit Adjustment to move the enclosure 5 feet from the property line and include landscaping in the 5-foot strip between the property line and the enclosure.

Given that the new enclosure for Metro PCS is for similar equipment as previously proposed and will not include a back-up generator, the proposed equipment is not expected to have additional impacts on the neighbors. Staff feels that the equipment cabinet facility could be located adjacent to the existing Sprint PCS equipment enclosure, set back five-feet from the property line. However, staff has suggested alternate locations for the proposed trash enclosure, such as the east side of the church, or the east or west sides of the southernmost office/classroom structure. These areas would allow better opportunities for architectural integration, as well as encourage the proper maintenance of the trash receptacles. It is for this reason that staff is recommending that the applicant move the trash enclosure away from the adjacent residential uses.

A visit by staff to the site revealed the continued existence of the illegal outdoor storage along the southerly property line. Therefore, staff recommends that within 60 days of the issuance of this permit and prior to the issuance of a building permit for the subject steeple and PCS antennas, the property owner shall be responsible for either: 1) the removal of all outdoor storage items within non-permitted outdoor storage areas and the two non-permitted storage sheds, or 2) obtain a permit adjustment for an architecturally attractive shed(s) or a permanent storage room addition to the main building complex. As part of the implementation of option #2 above, interim temporary storage for the period of time between the adjustment approval and completion of construction of a new approved storage facility shall occur within existing legal buildings on the project site or at an off-site rental space facility

PUBLIC OUTREACH

Notices of the public hearing were distributed to the owners and tenants of all properties located within 500 feet of the subject site as well as published in the San Jose Post Record. The Planning Commission and City Council agendas are posted on the City of San Jose website with copies of the staff report and City Council memo.

RECOMMENDATION

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its Resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Public/Quasi Public on the adopted San José 2020 General Plan Land Use/Transportation Diagram.

2. The project site is located in the R-1-8 Residence Zoning District.
3. Under the provisions of Section 15301 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from environmental review requirements. This project will not have a significant effect on the environment.
4. The subject site is developed with an existing church facility (Willow Vale Community Church) comprised of an existing single-story church and associated office and classroom buildings and a parking lot.
5. Single-family detached residential uses surround the subject site.
6. The project includes installation of up to three (3) additional wireless communications antennas within a modified church steeple with an overall height of 55 feet.
7. The wireless communications antennas, each measuring approximately 48 inches long by 8 inches wide, will be located at a height of approximately 46 feet and concealed within a modified church steeple approximately 55 feet in height.
8. The existing steeple already contains three (3) other antennas for another wireless communication provider that was approved by the Planning Commission (file CP00-020) in 2000.
9. The proposed wireless communication antennas will be located approximately 85 feet from the closest residential property.
10. The project will allow an equipment enclosure approximately 150 square feet in size and 6 feet in height adjacent to the southerly property line and a trash enclosure approximately 85 square feet in size located as far from the residential property line as possible to the satisfaction of the Director of Planning, Building and Code Enforcement.
11. The proposed project will not eliminate required parking.
12. The proposed project will exceed the standard height limit of 35 feet in the R-1-8 Residence Zoning District, however, a Development Exception (V00-015) was granted specifically for a 55-foot tall church steeple with internal antennas.
13. The new steeple will be slightly wider but the same overall height as the existing steeple.
14. The original CUP (CP00-020) encouraged co-location of other future antenna uses at this location.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project, as conditioned, is consistent with the adopted San José 2020 General Plan Land Use/Transportation Diagram of the City of San José.

2. The proposed project, complies with all applicable provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act.
4. The proposed project complies with the applicable criteria of the City Council Land Use Policy for Wireless Communications Facilities.
5. The proposed project, as conditioned, is consistent with the Commercial Design Guidelines.
6. The proposed antenna facility is compatible with the surrounding neighborhood.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
 - b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.
2. **Site Development Permit.** This permit fulfills the requirement for a Site Development Permit.
3. **Trash Enclosure.** The final plans shall be revised to show the relocation of the proposed trash enclosure, which is approximately 85 square feet in size, to an area away from the residential property line to the satisfaction of the Director of Planning, Building and Code Enforcement.
4. **Outside Storage.** No outside storage is permitted with this permit. Within 60 days of the issuance of this permit and prior to the issuance of a building permit for the subject steeple and PCS antennas, the property owner shall be responsible for either: 1) the removal of all outdoor storage items within non-permitted outdoor storage areas and the two non-permitted storage sheds, or 2) obtain a permit adjustment for an architecturally attractive shed(s) or a permanent storage room addition to the main building complex. As part of the implementation of option #2 above, interim temporary storage for the period of time between the adjustment approval and completion of construction of a new approved storage facility shall occur within existing legal buildings on the project site or at an off-site rental space facility.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Conformance with Plans.** Construction and development shall conform to approved development plans entitled, "Willow Vale Community Church SF06070A 1730 Curtner Avenue San Jose, CA 95125," dated February 25, 2004, last revised May 19, 2004, on file with the Department of Planning, Building and Code Enforcement and to the San José Building Code (San José Municipal Code, Title 24).
2. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.

3. **Construction Hours.** Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.
4. **Lighting.** On-site lighting for the equipment cabinet maintenance shall use low-pressure Sodium fixtures and be designed, controlled and maintained so that no light source is visible from outside of the property.
5. **Refuse.** All trash areas shall be effectively screened from view, covered and maintained in an orderly state. No outdoor storage is allowed/permitted unless designated on approved plan set. Trash areas shall be maintained in a manner to discourage illegal dumping.
6. **Roof Equipment.** All roof equipment shall be screened from view.
7. **Utilities.** All new on-site telephone, electrical and other overhead service facilities shall be placed underground.
8. **Emergency Generators.** This project does not permit the use of any emergency back-up electrical power generators. Any such proposal would be subject to further review and issuance of appropriate Planning permits.
9. **Colors and Materials.** All wireless communications antennas colors and materials are to be those specified on the approved plan set.
10. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* This permit file number, CP04-020, shall be printed on all construction plans submitted to the Building Division.
 - b. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
 - c. *Construction Conformance.* A project construction conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan submittal to the Building Division. Prior to final inspection approval by the Building Department, Developer shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms with all applicable requirements of the subject Permit, including the plan sets. To prevent delays in the issuance of Building Permits, please notify Planning Division staff at least one week prior to the final Building Division inspection date.
12. **Anti-Graffiti.** The applicant shall remove all graffiti from structures and fence surfaces within 48 hours of defacement.
13. **Co-location.** The owner(s) of the proposed antenna facility shall facilitate and encourage the co-location of other cellular antennas by unrelated operators within the subject church steeple to the

satisfaction of the Director of Planning, Building and Code Enforcement.

14. **Certification.** Pursuant to San Jose Municipal Code, Section 15.10.486, certificates of substantial completion for landscape and irrigation installation shall be completed by licensed or certified professionals and provided to the Department of Planning, Building, and Code Enforcement prior to approval of the final inspection of the project.

CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment must be approved prior to the expiration of this Permit.
2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.